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from its transportation-related activities under the 1984 Act, or order of reparation issued pursuant to section 11 of the 1984 Act, and to the benefit of the Federal Maritime Commission for any penalty assessed against the Insured pursuant to section 13 of the 1984 Act.

The Insurer consents to be sued directly in respect of any *bona fide* claim owed by Insured for damages, reparations or penalties arising from the transportation-related activities under the 1984 Act, of Insured in the event that such legal liability has not been discharged by the Insured or Insurer after a claimant has obtained a final judgment (after appeal, if any) against the Insured from a United States Federal or State Court of competent jurisdiction and has complied with the procedures for collecting on such a judgment pursuant to 46 CFR §515.23(b), the Federal Maritime Commission, or where all parties and claimants otherwise mutually consent, from a foreign court, or where such claimant has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Insured and/or Insurer pursuant to 46 CFR §515.23(b), whereby, upon payment of the agreed sum, the Insurer is to be fully, irrevocably and unconditionally discharged from all further liability to such claimant; provided, however, that Insurer's total obligation hereunder shall not exceed the amount per OTI set forth in 46 CFR §515.21 or the amount per group or association of OTIs set forth in 46 CFR §515.21.

The liability of the Insurer shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall aggregate the penalty of the Insurance in the amount per member OTI set forth in 46 CFR §515.21 or the amount per group or association of OTIs set forth in 46 CFR §515.21, regardless of the financial responsibility or lack thereof, or the solvency or bankruptcy, of Insured.

The insurance evidenced by this undertaking shall be applicable only in relation to incidents occurring on or after the effective date and before the date termination of this undertaking becomes effective. The effective date of this undertaking shall be ____ day of _____, _____, and shall continue in effect until discharged or terminated as herein provided. The Insured or the Insurer may at any time terminate the Insurance by filing a notice in writing with the Federal Maritime Commission at its office in Washington, D.C. Such termination shall become effective thirty (30) days after receipt of said notice by the Commission. The Insurer shall not be liable for any transportation-related activities under the 1984 Act of the Insured after the expiration of the 30-day period but such termination shall not affect the liability of the Insured and Insurer for such activities occurring prior to the

date when said termination becomes effective.

Insurer or Insured shall immediately give notice to the Federal Maritime Commission of all lawsuits filed, judgments rendered, and payments made under the insurance policy.

(Name of Agent) _____ domiciled in the United States, with offices located in the United States, at _____ is hereby designated as the Insurer's agent for service of process for the purposes of enforcing the Insurance certified to herein.

If more than one insurer joins in executing this document, that action constitutes joint and several liability on the part of the insurers.

The Insurer will promptly notify the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573, of any claim(s) against the Insurance.

Signed and sealed this _____ day of _____, _____.

Signature of Official signing on behalf of Insurer

Type Name and Title of signer

This Insurance Form has been filed with the Federal Maritime Commission.

[64 FR 11171, Mar. 8, 1999, as amended at 67 FR 39860, June 11, 2002]

APPENDIX C TO SUBPART C OF PART 515—OCEAN TRANSPORTATION INTERMEDIARY (OTI) GUARANTY FORM [FORM 68]

Form FMC-68

Federal Maritime Commission

Guaranty in Respect of Ocean Transportation Intermediary (OTI) Liability for Damages, Reparations or Penalties Arising from Transportation-Related Activities Under the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998

1. *Whereas*

(Name of Applicant [indicate whether *NVOCC* or *Freight Forwarder*]) (hereinafter "Applicant") is or may become an Ocean Transportation Intermediary ("OTI") subject to the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998 ("1984 Act"), 46 U.S.C. app. 1701 *et seq.*, and the rules and regulations of the Federal Maritime Commission ("FMC"), or is or may become a group or association of OTIs, and desires to establish its financial responsibility in accordance with section 19 of the 1984 Act,

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then, provided that the FMC shall have accepted, as sufficient for that purpose, the Applicant's application, supported by evidence of a financial rating for the Guarantor of Class V or higher under the Financial Size Categories of A.M. Best & Company or equivalent from an acceptable international rating organization on such rating organization's letterhead or designated form, or, in the case of Guaranty provided by Underwriters at Lloyd's, documentation verifying membership in Lloyd's, or, in the case of surplus lines insurers, documentation verifying inclusion on a current "white list" issued by the Non-Admitted Insurers' Information Office of the National Association of Insurance Commissioners, the undersigned Guarantor certifies that it has sufficient and acceptable assets located in the United States to cover all damages arising from the transportation-related activities of the covered OTI as specified under the 1984 Act.

2. *Now, Therefore*, The condition of this obligation is that the penalty amount of this Guaranty shall be available to pay any judgment obtained or any settlement made pursuant to a claim under 46 CFR §515.23(b) for damages against the Applicant arising from the Applicant's transportation-related activities or order for reparations issued pursuant to section 11 of the 1984 Act, 46 U.S.C. app. 1710, or any penalty assessed against the Principal pursuant to section 13 of the 1984 Act, 46 U.S.C. app. 1712.

3. The undersigned Guarantor hereby consents to be sued directly in respect of any *bona fide* claim owed by Applicant for damages, reparations or penalties arising from Applicant's transportation-related activities under the 1984 Act, in the event that such legal liability has not been discharged by the Applicant after any such claimant has obtained a final judgment (after appeal, if any) against the Applicant from a United States Federal or State Court of competent jurisdiction and has complied with the procedures for collecting on such a judgment pursuant to 46 CFR §515.23(b), the FMC, or where all parties and claimants otherwise mutually consent, from a foreign court, or where such claimant has become entitled to payment of a specified sum by virtue of a compromise settlement agreement made with the Applicant and/or Guarantor pursuant to 46 CFR §515.23(b), whereby, upon payment of the agreed sum, the Guarantor is to be fully, irrevocably and unconditionally discharged from all further liability to such claimant. In the case of a guaranty covering the liability of a group or association of OTIs, Guarantor's obligation extends only to such damages, reparations or penalties described herein as are not covered by another insurance policy, guaranty or surety bond held by the OTI(s) against which a claim or final judgment has been brought.

4. The Guarantor's liability under this Guaranty in respect to any claimant shall not exceed the amount of the guaranty; and the aggregate amount of the Guarantor's liability under this Guaranty shall not exceed the amount per OTI set forth in 46 CFR §515.21 or the amount per group or association of OTIs set forth in 46 CFR §515.21 in aggregate.

5. The Guarantor's liability under this Guaranty shall attach only in respect of such activities giving rise to a cause of action against the Applicant, in respect of any of its transportation-related activities under the 1984 Act, occurring after the Guaranty has become effective, and before the expiration date of this Guaranty, which shall be the date thirty (30) days after the date of receipt by FMC of notice in writing that either Applicant or the Guarantor has elected to terminate this Guaranty. The Guarantor and/or Applicant specifically agree to file such written notice of cancellation.

6. Guarantor shall not be liable for payments of any of the damages, reparations or penalties hereinbefore described which arise as the result of any transportation-related activities of Applicant after the cancellation of the Guaranty, as herein provided, but such cancellation shall not affect the liability of the Guarantor for the payment of any such damages, reparations or penalties prior to the date such cancellation becomes effective.

7. Guarantor shall pay, subject to the limit of the amount per OTI set forth in 46 CFR §515.21, directly to a claimant any sum or sums which Guarantor, in good faith, determines that the Applicant has failed to pay and would be held legally liable by reason of Applicant's transportation-related activities, or its legal responsibilities under the 1984 Act and the rules and regulations of the FMC, made by Applicant while this agreement is in effect, regardless of the financial responsibility or lack thereof, or the solvency or bankruptcy, of Applicant.

8. Applicant or Guarantor shall immediately give written notice to the FMC of all lawsuits filed, judgments rendered, and payments made under the Guaranty.

9. Applicant and Guarantor agree to handle the processing and adjudication of claims by claimants under the Guaranty established herein in the United States, unless by mutual consent of all parties and claimants another country is agreed upon. Guarantor agrees to appoint an agent for service of process in the United States.

10. This Guaranty shall be governed by the laws in the State of _____ to the extent not inconsistent with the rules and regulations of the FMC.

11. This Guaranty is effective the day of _____, _____, 12:01 a.m., standard time at the address of the

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Guarantor as stated herein and shall continue in force until terminated as herein provided.

12. The Guarantor hereby designates as the Guarantor's legal agent for service of process domiciled in the United States _____, with offices located in the United States at _____, for the purposes of enforcing the Guaranty described herein.

(Place and Date of Execution)

(Type Name of Guarantor)

(Type Address of Guarantor)

By

(Signature and Title)

**APPENDIX D TO SUBPART C OF PART
515—OCEAN TRANSPORTATION INTER-
MEDIARY (OTI) GROUP BOND FORM
[FMC-69]**

Form FMC-69

Federal Maritime Commission

Ocean Transportation Intermediary (OTI) Group Supplemental Coverage Bond Form (Section 19, Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 and the Coast Guard Authorization Act of 1998)

_____, [indicate whether
NVOCC or *Freight Forwarder*], as Principal
(hereinafter "Principal"), and _____
as
Surety (hereinafter "Surety") are held and
firmly bound unto the United States of
America in the sum of
\$ _____ for the payment of
which sum we bind ourselves, our heirs, ex-
ecutors, administrators, successors and as-
signs, jointly and severally.

Whereas, (Principal) _____ op-
erates as a group or association of OTIs in
the waterborne foreign commerce of the
United States and pursuant to section 19 of
the Shipping Act of 1984, as amended by the
Ocean Shipping Reform Act of 1998 and the
Coast Guard Authorization Act of 1998 ("1984
Act"), files this bond with the Federal Mari-
time Commission;

Now, therefore, the conditions of this obli-
gation are that the penalty amount of this
bond shall be available to pay any judgment
obtained or any settlement made pursuant
to a claim under 46 CFR §515.23(b) against
the OTIs enumerated in Appendix A of this
bond for damages arising from any or all of
the identified OTIs' transportation-related
activities under the 1984 Act, 46 U.S.C. app.
1701 *et seq.*, or order for reparations issued
pursuant to section 11 of the 1984 Act, 46

U.S.C. app. 1710, or any penalty assessed pur-
suant to section 13 of the 1984 Act, 46 U.S.C.
app. 1712, that are not covered by the identi-
fied OTIs' individual insurance policy(ies),
guaranty(ies) or surety bond(s).

This bond shall inure to the benefit of any
and all persons who have obtained a judg-
ment or made a settlement pursuant to a
claim under 46 CFR §515.23(b) for damages
against any or all of the OTIs identified in
Appendix A not covered by said OTIs' insur-
ance policy(ies), guaranty(ies) or surety
bond(s) arising from said OTIs' transpor-
tation-related activities under the 1984 Act,
or order for reparation issued pursuant to
section 11 of the 1984 Act, and to the benefit
of the Federal Maritime Commission for any
penalty assessed against said OTIs pursuant
to section 13 of the 1984 Act. However, the
bond shall not apply to shipments of used
household goods and personal effects for the
account of the Department of Defense or the
account of federal civilian executive agen-
cies shipping under the International House-
hold Goods Program administered by the
General Services Administration.

The Surety consents to be sued directly in
respect of any *bona fide* claim owed by any or
all of the OTIs identified in Appendix A for
damages, reparations or penalties arising
from the transportation-related activities
under the 1984 Act of the OTIs in the event
that such legal liability has not been dis-
charged by the OTIs or Surety after a claim-
ant has obtained a final judgment (after ap-
peal, if any) against the OTIs from a United
States Federal or State Court of competent
jurisdiction and has complied with the proce-
dures for collecting on such a judgment pur-
suant to 46 CFR §515.23(b), the Federal Mari-
time Commission, or where all parties and
claimants otherwise mutually consent, from
a foreign court, or where such claimant has
become entitled to payment of a specified
sum by virtue of a compromise settlement
agreement made with the OTIs and/or Surety
pursuant to 46 CFR §515.23(b), whereby, upon
payment of the agreed sum, the Surety is to
be fully, irrevocably and unconditionally dis-
charged from all further liability to such
claimant.

The liability of the Surety shall not be dis-
charged by any payment or succession of
payments hereunder, unless and until such
payment or payments shall aggregate the
penalty of this bond, and in no event shall
the Surety's total obligation hereunder ex-
ceed the amount per member OTI set forth in
46 CFR §515.21 identified in Appendix A, or
the amount per group or association of OTIs
set forth in 46 CFR §515.21, regardless of the
number of OTIs, claims or claimants.

This bond is effective the _____ day of
_____, _____, and shall con-
tinue in effect until discharged or termi-
nated as herein provided. The Principal or
the Surety may at any time terminate this